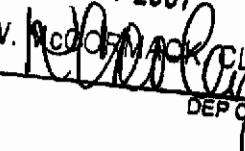


IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

JUN -4 2007

JAMES W. MCCORMACK CLERK
By:  DEP. CLERK

UNITED STATES OF AMERICA

v.

NO: 4:07-cr-00106-SWW

KRISTIAN D. NELSON

ORDER

At the status hearing for Motion as to Appointment of Counsel (docket no. 15), heard on May 25, 2007, the United States expressed reservations about whether the defendant's chosen counsel, Alvin Clay, should be disqualified because of a potential conflict. At that time, the court informed defendant Nelson about his right to conflict-free counsel, and obtained Nelson's waiver of any potential conflict in writing.

However, while Nelson has an absolute right to counsel, his right to *specific* counsel is not absolute. *Carey v. Minnesota*, 767 F.2d 440, 441 (8th Cir. 1982). Where the appointed counsel would obstruct the orderly administration of justice or deprive the court of its inherent power to control the administration of justice, specific counsel may be removed from the case. *United States v. Gonzalez-Lopez*, 399 F.3d 924, 929 (8th Cir. 2005). Removal of the defendant's chosen counsel from a criminal case is a serious matter which implicates Constitutional concerns. *United States v. Mendoza-Salgado*, 964 F.2d 993, 1014 (10th Cir. 1992)(citing *Strickland v. Washington*, 466 U.S. 668, 684 (1984)).

The United States has provided limited information which would form a basis for removing Alvin Clay as Nelson's counsel. At this time, the court will provide the United States

with the opportunity to supplement its oral argument with an additional brief which points to specific instances of impropriety and potential of serious conflict as bases of disqualification.

Accordingly, if the parties wish to file additional briefs, the United States' brief will be due by Friday, June 8th, 2007 and defendant's brief will be due by Wednesday, June 13th, 2007.

IT IS SO ORDERED, this 4th day of June, 2007.



John F. Forster, Jr.

UNITED STATES MAGISTRATE JUDGE